

9 KAR 1:030. Administrative proceedings.

RELATES TO: KRS 11A.080, 11A.100

STATUTORY AUTHORITY: KRS 11A.080, 11A.100, 11A.110(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 11A.080(4)(b) authorizes the commission to initiate an administrative hearing to determine whether there has been a violation. This administrative regulation establishes the procedures governing administrative proceedings.

Section 1. Initiating Order. To initiate an administrative proceeding, the commission shall issue an initiating order to the alleged violator, who shall be referred to as the respondent during the course of the administrative proceeding. The initiating order shall:

- (1) Include the information required by KRS 13B.050(3);
- (2) State that all material submitted to the commission by the respondent or his attorney shall be addressed to the Executive Branch Ethics Commission; and
- (3) Establish the procedural schedule for the proceeding or state that it will be set by subsequent order.

Section 2. Answer. (1) A written answer to the initiating order shall be filed with the commission within twenty (20) days of service, by the:

- (a) Respondent, if he has not retained counsel; or
 - (b) Respondent's attorney, if he has retained counsel.
- (2) The answer shall be verified by the respondent.

Section 3. Counsel. (1) If a respondent has retained counsel, the attorney shall file an entry of appearance with the commission.

(2) If a respondent has retained counsel, notices, correspondence, and orders relating to the administrative proceeding shall thereafter be transmitted to the attorney instead of the respondent.

Section 4. Settlement. (1) The commission's counsel may enter into mediation or informal proceedings pursuant to KRS 13B.070 with the respondent after charges have been initiated.

(2) An agreed order or settlement reached through this process shall be reviewed by the commission and, upon approval by the commission, shall be signed by the commission and the respondent.

(3) The commission shall not approve a settlement that provides for the confidentiality of:

- (a) The existence of the settlement; or
- (b) Any of the terms of the settlement.

Section 5. Ex Parte Communications. Once an administrative proceeding has commenced, the commission, its executive director, commission counsel, the respondent, respondent counsel or other person acting on behalf of the respondent shall not initiate, participate in, or consider ex parte communications concerning the subject matter of a hearing or an issue of fact or law related thereto, except upon notice and opportunity for all parties to participate.

Section 6. Record to be Maintained. (1) The hearing shall be transcribed by a court stenographer or by means of electronic media, such as videotaping.

(2)(a) A transcript or electronic media copy of the testimony taken during the hearing shall be kept by the commission.

(b) Upon request and payment of the appropriate fee, a copy of the transcript or copy of the electronic media recording of the hearing shall be available to the respondent from the:

1. Court stenographer; or
2. Commission, if the stenographer is unable to furnish a copy.

(c) A copy of the transcript of the hearing or copy of the electronic media recording of the hearing shall be available to all commission members.

(d) Any documents or exhibits introduced into evidence shall be kept with the transcript or copy of the electronic media recording of the hearing or as ordered by the hearing officer. (19 Ky.R. 2349; eff. 6-7-93; Am. 21 Ky.R. 2517; 22 Ky.R. 26; eff. 7-6-95; 25 Ky.R. 884; 1577; eff. 1-19-1999; 31 Ky.R. 376; 697; eff. 11-5-2004.)